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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 002164

SIPDIS

STATE FOR SA/INS  
LONDON FOR POL - GURNEY  
NSC FOR MILLARD

E.O. 12958: DECL: 10/30/2013  
TAGS: PHUM MOPS PGOV PTER NP  
SUBJECT: NEPAL: ICRC LAMENTS POST-CEASEFIRE DROP IN ACCESS  
TO ARMY DETAINEES

Classified By: CDA ROBERT K. BOGGS. REASON: 1.5(B,D).

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SUMMARY  
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(C) SUMMARY: The Royal Nepal Army (RNA) has not allowed representatives of the International Committee of the Red Cross (ICRC) access to detainees in military custody since the end of the ceasefire on August 27. Access to detainees in police custody, however, has improved dramatically over the past year, according to ICRC Head Delegate Pascal Mauchle. Mauchle believes publicly pressuring the RNA would prove counterproductive, but asked for Embassy support in raising the issue in an informal, low-key manner with the RNA leadership. The ICRC has had only limited success in visiting detainees in Maoist custody, and has made no visits since the end of the ceasefire. End summary.

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RNA RETRENCHES ON PRISONER ACCESS  
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12. (C) In an October 23 meeting, International Committee of the Red Cross (ICRC) Head Delegate Pascal Mauchle told poloff that the Royal Nepal Army (RNA) has not allowed his organization access to detainees held in military custody since the end of the ceasefire on August 27. Mauchle said the apparent policy change is particularly disheartening because the RNA, after more than a year of refusing such requests, had allowed the ICRC to make nearly 40 visits to military detention facilities during the January 29-August 27 ceasefire. The RNA has not officially reversed its policy, Mauchle said, but no ICRC request for access has been granted since the resumption of hostilities.

13. (C) Mauchle said he has raised the matter with the Director of Military Operations, the Director of Military Intelligence, and even Chief of Army Staff Gen. Pyar Jung Thapa. According to Mauchle, Thapa assured him that the previous policy of allowing ICRC access remains unchanged and that the RNA is fully committed to respecting human rights. He promised to provide ICRC with a list of prisoners in military custody. (So far, however, the list has not materialized.) When Mauchle asked if Thapa would contact his divisional and brigade commanders to authorize access, Thapa somewhat disingenuously suggested that Mauchle contact them himself directly.

14. (C) Mauchle regards the apparent policy reversal as disappointing--especially given the progress made during the ceasefire--but remains generally optimistic that the RNA's attitude toward his organization is slowly improving. He believes public and/or heavyhanded pressure on the RNA to allow access would only prove counterproductive, putting the Army leadership on the defensive and possibly hardening existing misperceptions and suspicions of ICRC motives and mandate. Instead, he asked that the Embassy raise the matter informally with the RNA.

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PROGRESS WITH POLICE  
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15. (SBU) On a more positive note, Mauchle reported that the ICRC continues to have excellent access to detainees in police custody, both at police stations and in jails. In fact, he said he had been informed by the Home Ministry that the ICRC no longer needs to prenotify the Ministry in order to conduct a visit. During the seven-month ceasefire, the ICRC made 57 visits to police stations and 78 to jails across the country. Since the end of the ceasefire, the ICRC has registered another 12 prisoners in police custody, including two in Kathmandu. In all, combined with the 39 visits to military detainees made during the ceasefire, the ICRC registered 367 new detainees in 55 districts since January 1.

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MAOISTS MUTE  
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16. (C) The ICRC has had far less success in obtaining access to detainees held by the Maoists, Mauchle acknowledged. He reported that an ICRC team was currently in the field in Baglung District, attempting to make contact with a local commander in order to obtain access to possible detainees. On only a few occasions, including when the Maoists released 25 captive policemen into ICRC custody in October 2001, has the ICRC had the opportunity to interview people detained by the Maoists. In general, he believes the Maoists do not hold captives for extended periods, partially because of a lack of facilities to feed and house them. The assumption is that prisoners are either killed or released.

17. (C) The ICRC had previously established good contacts with members of the Maoist leadership, but has had no communication with them since the end of the ceasefire. Mauchle speculated that his previous contacts were no longer in the country. Since the end of the ceasefire, Maoist command and control appears to be much more decentralized, he said, with far greater discretion and decision-making authority being given to local commanders in the field. For example, ICRC requests that formerly had to be referred to members of the top leadership now appear to be decided at the local level, he noted. While it is difficult at this point to determine the reason for this apparent shift--one popular theory is that the Maoist command structure is starting to crumble--or to know how long it may last, Mauchle said, a decentralized command within a mobile fighting force can only increase the challenges the ICRC faces in obtaining access to Maoist detainees.

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COMMENT  
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18. (C) While the RNA's apparent reversal in its previous policy is a disappointing step backward, we nonetheless agree with Mauchle's assessment that military attitudes and prejudices about the ICRC are slowly changing in the right direction. We will seek an opportunity to reinforce with the RNA the message that compliance with international human rights standards--including allowing ICRC access to detainees--can only help the RNA improve its public image and its stature as a well-disciplined, professional fighting force.

BOGGS